

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
VINCENT E. STUART,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 16-cv-12559-IT
)	
TOWN OF FRAMINGHAM, and)	
BRIAN SIMONEAU, Assistant to the)	
Chief of Police of the Town of Framingham,)	
individually,)	
)	
Defendants.)	
_____)	

PLAINTIFF'S MOTION TO COMPEL DISCOVERY FROM DEFENDANTS

Pursuant to Rule 37(a) of the Federal Rules of Civil Procedure, Plaintiff Vincent E. Stuart ("Plaintiff") hereby moves to compel Defendant Town of Framingham (the "Town") and Defendant Brian Simoneau ("Simoneau") to respond to his outstanding discovery requests. As reasons therefore, Plaintiff states as follows:

1. Plaintiff served requests for the production of documents and interrogatories on each Defendant months ago. Despite several months of repeated promises and assurances that documents and answers to interrogatories would be forthcoming, Defendants have failed to produce one document or answer a single interrogatory. Throughout, Plaintiff has extended several professional courtesies to Defendants' counsel and attempted to confer to narrow areas of dispute, mindful that the purpose of Rule 37 is to not clog the Court with discovery disputes that could easily be resolved by the parties.

2. The deadlines for responding to this discovery have passed. Following the expiration of the latest deadline by which Defendants proposed producing documents, and

immediately upon notice that Stuart intended to arrange for a telephonic conference with the Court to discuss the outstanding discovery requests, Defendants' counsel for the *very first time* apprised Stuart's counsel that Defendants intend to seek a stay of discovery pending the outcome of their motion for partial judgment on the pleadings. Dkt. No. 27 (filed on June 29, 2017).

3. The Defendants' refusal to comply with their discovery obligations and fulfill their promises was particularly surprising where: (1) the so-called "dispositive" motion is not dispositive, as it concerns only two of seven counts in the First Amended Complaint; (2) Defendants' counsel participated in discovery conferences and continued making assurances about Defendants' document production and interrogatory answers well *after* the "dispositive" motion was filed; and (3) the Town is a public entity subject to the Massachusetts Public Records Law such that many of the documents Stuart is requesting are public records to which any citizen is entitled even in the absence of litigation.

4. As further ground for the Motion, Stuart submits the accompanying Memorandum of Law, which is incorporated herein by reference.

WHEREFORE, Plaintiff respectfully requests that this Court enter an order requiring Defendants to:

- A. Produce responsive documents;
- B. Answer the propounded interrogatories;
- C. Provide a privilege log consistent with Fed. R. Civ. P. 26(b)(5);
- D. Entering Stuart's proposed Order Regarding Discovery of Electronically Stored Information; and

Plaintiff further requests that Defendants should be order to pay Plaintiff's reasonable attorneys' fees and costs incurred in bringing this motion.

Respectfully submitted,

VINCENT STUART

By his attorneys,

/s/ Benjamin J. Wish
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Dated: August 11, 2017

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true copy of the above document upon all parties with an interest in this matter by electronically filing through this Court's CM/ECF filing system this 11th day of August, 2017.

/s/ Benjamin J. Wish
Benjamin J. Wish

LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1, I hereby certify that I have conferred with counsel for the Defendants in a good faith effort to resolve the issues presented in this motion prior to filing this motion.

/s/ Benjamin J. Wish
Benjamin J. Wish